

Senate Bill No. 1492

CHAPTER 838

An act to add Part 5.7 (commencing with Section 11160) to Division 2 of the Revenue and Taxation Code, relating to local government finance, and making an appropriation therefor.

[Approved by Governor September 30, 2012. Filed with
Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, Leno. Voter-approved local assessment: vehicles.

Existing law authorizes certain counties to impose a local vehicle license fee not exceeding \$10 per vehicle, as provided, for the privilege of operating specified vehicles on public roads in the county. Existing law requires a county imposing this fee to contract with the Department of Motor Vehicles to collect and administer the fee, as specified.

This bill would authorize the City and County of San Francisco to impose a voter-approved local assessment for specified vehicles if certain conditions, including approval by local voters, are met. The bill would require the city and county to contract with the department to collect and administer the assessment, as provided.

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions against the income that is otherwise subject to tax under those laws, including a deduction for local taxes that were paid or incurred by a taxpayer.

This bill would require the Franchise Tax Board to annually notify the department or the Controller, as provided, of estimated revenue losses to the state resulting from taxpayers deducting, for purposes of the Personal Income Tax Law and the Corporation Tax Law, the voter-approved local assessments authorized by this bill, as specified. This bill would require the department to deposit the assessments collected in the San Francisco Vehicle Assessment Fund, which is created in this bill. This bill would require the department to transmit the assessments collected, minus the amount currently outstanding that has been calculated, as provided, to the city and county as promptly as feasible, and would continuously appropriate moneys in the fund for this purpose. This bill would also require the Franchise Tax Board to make adjustments to estimated revenue losses based on actual filings and returns and would provide for reimbursement of any differences, as specified, and would continuously appropriate moneys in the fund for this purpose.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Local Assessment Act.

SEC. 2. Part 5.7 (commencing with Section 11160) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 5.7. VOTER-APPROVED LOCAL ASSESSMENT

11160. This part is applicable only to the City and County of San Francisco.

11161. For purposes of this part:

(a) "Board of supervisors" means the board of supervisors of the city and county.

(b) "City and county" means the City and County of San Francisco.

(c) "Department" means the Department of Motor Vehicles.

(d) "Market value" has the same meaning and shall be determined in the same manner as required under Part 5 (commencing with Section 10701) of Division 2.

(e) "Person" includes an individual, a firm, a corporation, a limited liability company, a partnership, or any other legal entity.

(f) "Resident of the city and county" means a person whose address, as reflected in department registration records, is in the city and county, but does not include a person that establishes to the satisfaction of the department that the person's place of residence is elsewhere.

(g) "Voter-approved local assessment" means a supplemental charge added to the fee imposed pursuant to Part 5 (commencing with Section 10701).

11162. Notwithstanding Section 10758, the board of supervisors may, by ordinance, impose a voter-approved local assessment for general revenue purposes pursuant to this part, if all of the following conditions are met:

(a) The ordinance proposing the assessment complies with both of the following:

(1) Section 11163.

(2) Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) The ordinance proposing the assessment is approved by two-thirds of all members of the board of supervisors.

(c) The ordinance proposing the assessment is submitted to the electorate of the city and county and is approved by a majority vote of the voters voting on the ordinance.

(d) The board of supervisors transmits to the department and the Franchise Tax Board a certified copy of the ordinance imposing that assessment immediately after the results of the election described in subdivision (c) are certified.

(e) The ordinance proposing the assessment does not create different classes of vehicles (whether by type, size, passenger capacity, value or cost, fuel consumption, or any other characteristic) for differential taxation (whether by rate, method, assessment ratio, or any other means), except that the exemptions from the vehicle license fee set forth in Part 5 (commencing with Section 10701) shall be applicable.

11163. An ordinance imposing a voter-approved local assessment pursuant to this part shall contain provisions in substance as follows:

(a) A provision that the assessment is imposed for the privilege of a resident of the city and county to operate upon the public highways in the city and county a vehicle or trailer coach, the registrant of which is subject to tax under Part 5 (commencing with Section 10701).

(b) (1) A provision establishing the annual amount of the assessment at a rate that equals the difference between the following two rates:

(A) Two percent of the market value of the vehicle or trailer coach.

(B) The rate, including any offset to that rate, set forth in Part 5 (commencing with Section 10701), for a vehicle or trailer coach.

(2) A provision that the rate established under the provision described in paragraph (1) is subject to both of the following:

(A) That the rate may not exceed 2 percent of the market value of the vehicle or trailer coach.

(B) That any adjustment that is required to be made to the rate because of a change in the rate, or any offset to that rate, set forth in Part 5 (commencing with Section 10701), shall not take effect until the first day of the first fiscal year that follows the fiscal year in which the change to the rate or offset set forth in that part became operative.

(c) A provision that the assessment will begin to be imposed as follows:

(1) If the election in which the ordinance receives voter approval occurs between January 1 and June 30, on the first January 1 that follows that election.

(2) If the election in which the ordinance receives voter approval occurs between July 1 and December 31, on the first July 1 that follows that election.

(d) Provisions identical to those contained in Part 5 (commencing with Section 10701), insofar as they relate to vehicle license fees and are applicable, and insofar as they are consistent with this part, except that the name of the city and county as the taxing agency shall be substituted for that of the state.

(e) A provision that all amendments, subsequent to the effective date of the voter-approved local assessment ordinance, to Part 5 (commencing with Section 10701) relating to vehicle license fees and not inconsistent with this part, shall automatically be incorporated into the voter-approved local assessment ordinance.

(f) A provision that requires the city and county to contract with the department, which contract shall contain provisions in substance as follows:

(1) A requirement that the department perform all functions incident to the administration and collection of the voter-approved local assessment.

(2) A provision specifying the manner in which refunds pursuant to Part 5 (commencing with Section 10701), as incorporated in the voter-approved local assessment ordinance pursuant to subdivisions (c) and (d), will be made and administered.

(3) A provision that requires the city and county to pay the department for the initial setup and programming costs identified by the department.

(4) A provision specifying the manner in which reimbursements to the state shall be made in compliance with subdivision (b) of Section 11167 after the inoperation or repeal of a voter-approved local assessment.

11163.2. Any ordinance approved pursuant to Section 11163 shall be valid and enforceable even if approved, as required by Section 11162, by the board of supervisors and by the voters prior to the effective date of the act adding this section, but only if both of the following apply:

(a) Any assessment imposed pursuant to the approval of the ordinance is not levied until at least 90 days after the effective date of the act adding this section.

(b) The board of supervisors ratifies its adoption of the ordinance after the effective date of the act adding this section and prior to the first levy of the assessment imposed pursuant to the approval of the ordinance.

11164. The department shall do all of the following:

(a) Collect the voter-approved local assessment, pursuant to a contract with the city and county, and deposit it into the San Francisco Vehicle Assessment Fund, which is hereby created in the State Treasury.

(b) Calculate its costs in administering the voter-approved local assessment pursuant to this part.

(c) From the assessments collected under subdivision (a), calculate the amount reported under subdivision (a) of Section 11166 as appropriately adjusted, if applicable, by the most recent amount reported under subdivision (b) of Section 11166.

(d) Transmit revenues derived from the assessments collected under subdivision (a), minus the amount currently outstanding that has been calculated under subdivisions (b) and (c), to the city and county as promptly as feasible. The moneys necessary to accomplish the transfer shall be continuously appropriated for that purpose.

(e) The department and the Franchise Tax Board shall develop a reporting process that enables the department to report to the Franchise Tax Board in a timely manner the data necessary for the Franchise Tax Board to prepare the estimate of revenue loss specified in Section 11166.

11165. (a) This part shall not be construed to supplant any moneys that the state apportions to the city and county, including, but not limited to, moneys apportioned to the city and county under the Vehicle License Fee Law set forth in Part 5 (commencing with Section 10701), or any successor to that law.

(b) Notwithstanding any other law, if the city and county that imposes a voter-approved local assessment has a reduction in revenue derived from that assessment because of an increase in the rate, including any offset to that rate, set forth in Part 5 (commencing with Section 10701) for a vehicle

or a trailer coach, reimbursement by the state shall not be made to the city and county for that loss in revenue.

11166. (a) On or before January 1 of the year that follows a year, or portion thereof, in which an assessment is imposed pursuant to this part, and annually thereafter, the Franchise Tax Board shall report to the department an estimate of the total amount of the revenue loss to the state that is expected to occur in the next calendar year, for a report given before January 1, or the current calendar year, for a report given on January 1, from deductions taken under the Personal Income Tax Law (Part 10 (commencing with Section 17001)) and the Corporation Tax Law (Part 11 (commencing with Section 23001)) for taxes paid or incurred as a result of an enacted tax being imposed pursuant to this part.

(b) On or before January 1 of the second year that follows a year, or portion thereof, in which an assessment is imposed pursuant to this part, and annually thereafter, the Franchise Tax Board shall report to the department a revision of the applicable previous estimate made pursuant to subdivision (a), based on actual filings and returns.

11167. For any revisions to previous estimates made by the Franchise Tax Board on or after January 1 following the inoperation or repeal of a voter-approved local assessment pursuant to Section 11166, the following shall apply:

(a) (1) In the event that the Franchise Tax Board's reported estimate, pursuant to subdivision (a) of Section 11166, exceeds the revision of that estimate, pursuant to subdivision (b) of Section 11166, the city and county shall be reimbursed by the Controller from the San Francisco Vehicle Assessment Fund.

(2) The money in the San Francisco Vehicle Assessment Fund is hereby continuously appropriated, without regard to fiscal years, for the purposes enumerated in this subdivision.

(b) In the event that the Franchise Tax Board's reported estimate, pursuant to subdivision (a) of Section 11166, is less than the revision of that estimate, pursuant to subdivision (b) of Section 11166, the state shall be reimbursed by the city and county. The reimbursement pursuant to this subdivision shall be performed as provided in paragraph (4) of subdivision (f) of Section 11163.

(c) Notwithstanding Section 11166, any revision of an applicable previous estimate shall not be reported to the department and shall be reported to the Controller.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because numerous groups in the City and County of San Francisco have requested that authorization be granted for such an assessment in that city and county.